

**AN ORDINANCE  
BY**

**AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO FC-6039-94, AIRPORT RETAIL CONCESSIONS, WITH HARTSFIELD AIR VENTURES, JV ("HAV"), TO BE EFFECTIVE AS OF SEPTEMBER 1, 2007 THROUGH JANUARY 31, 2008, FOR THE PURPOSE OF INCREASING THE PERCENTAGE RENTAL FEE AND DECREASING THE MINIMUM ANNUAL GUARANTEE TO BE PAID BY HAV; AUTHORIZING HAV TO PROVIDE, AND THE CITY TO ACCEPT AIRPORT RETAIL CONCESSIONS AT HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT UNDER THE TERMS SET FORTH IN CONTRACT FC-6039-94, AS AMENDED, BEGINNING SEPTEMBER 1, 2007 AND CONTINUING UNTIL THE CITY PROCURES AND EXECUTES A NEW AGREEMENT FOR AIRPORT RETAIL CONCESSIONS, BUT NOT TO EXTEND BEYOND JANUARY 31, 2008; AUTHORIZING THE CITY TO WAIVE THE COMPETITIVE SOURCE SELECTION REQUIREMENTS CONTAINED IN SECTION 2-1187, 2-1188, AND 2-1189 OF ARTICLE X, PROCUREMENT AND REAL ESTATE CODE, AS WELL AS ANY OTHER CONFLICTING PROVISIONS OF THE CITY OF ATLANTA CODE OF ORDINANCES; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Atlanta (the "City"), as owner and operator of the Hartsfield Jackson Atlanta International Airport (the "Airport") entered into Concession Agreement FC-6039-94 (the "Lease") with HAV, which became effective on April 1, 1995, for the establishment and operation of Airport retail concessions in the Atrium and on Concourse A at Hartsfield-Jackson Atlanta International Airport; and

**WHEREAS**, as the result of various amendments, the term of the Lease was extended through January 5, 2007; and

**WHEREAS**, during the term of the Lease, the Department of Aviation determined that the procurement of new Airport retail concessions services would not be completed prior to January 5, 2007; and

**WHEREAS**, by Ordinance 06-O-2702, the City Council approved the extension of the Lease, on a month-to-month basis, through August 31, 2007; and

**WHEREAS**, the Departments of Procurement and Aviation have determined that additional time will be required to ensure fairness and maximize competition in the procurement of new concessions; and

**WHEREAS**, it is in the City's best interest to provide for the continuation of Airport retail concessions services until such time as the procurement of a new Airport retail concessions agreement has been completed; and

**WHEREAS**, in recognition of current market conditions, the Department of Aviation and HAV desire to amend the Lease, effective September 1, 2007 through January 31, 2008, to increase the percentage rent to be paid by HAV to 17% of Gross Revenues for all news and gift stores and 15% of Gross Revenues for all other stores, with the exception of electronic stores, which will remain at 11% of Gross Revenues, and to decrease the Minimum Annual Guarantee from \$7.9 million to \$4.2 million; and

**WHEREAS**, the Aviation General Manager and Chief Procurement Officer have recommended that HAV be authorized to continue providing Airport retail concessions services, uninterrupted, and the City be authorized to accept such services, under the terms set forth in Contract FC-6039-94, as amended, until such time as a new contract for Airport retail concessions services has been procured and executed.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:**

**SECTION 1:** That the Mayor is authorized to execute an Amendment to FC-6039-94, to be effective as of September 1, 2007 through January 31, 2008, for the purpose of increasing the percentage rent to be paid by HAV to 17% of Gross Revenues for all news and gift stores and 15% of Gross Revenues for all other stores, with the exception of electronics stores, which will remain at 11% of Gross Revenues, and decreasing the Minimum Annual Guarantee to \$4.2 million.

**SECTION 2:** That the City Attorney is directed to prepare an appropriate Amendment for execution by the Mayor.

**SECTION 3:** That the Amendment will not become binding on the City and the City will incur no obligation or liability under it until it has been executed by the Mayor, attested to by the Municipal Clerk, approved as to form by the City Attorney and delivered to HAV.

**SECTION 4:** That HAV is authorized to provide Airport retail concessions services, and the City is authorized to accept such services, under the terms set forth in FC-6039-94, as amended, beginning on September 1, 2007 and continuing until the City procures and executes a new agreement for Airport retail concessions, but not to extend beyond January 31, 2008.

**SECTION 5:** That all ordinances or parts of ordinances in conflict with this ordinance, including but not limited to Section 2-1187, 2-1188, and 2-1189 of the City of Atlanta Code of Ordinances, are waived to the extent of the conflict.